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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,461	11/30/1999	HIDEKAZU KOJIMA	104651	6769
25944	7590	03/12/2004	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			AN, SHAWN S	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 03/12/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/423,461

Applicant(s)

KOJIMA ET AL.

Examiner

Shawn S An

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Supplemental Amendment

1. As per Applicant's instructions in Paper 19 as filed on 2/19/04, claims 1-6 have been amended.

Response to Reconsideration/Remarks

2. Applicant's arguments with respect to Reconsideration and Remarks filed 12/24/03 and 2/19/04, respectively, have been carefully considered with respect to amended claims 1-6, but are considered to be moot in view of the new ground(s) of rejection using the same references incorporated in the Official action filed 8/28/03.

Specific responses to reconsideration as follows:

A) Applicant argues that Takahashi is non-analogous art and cannot be used in a 35 USC § 103(a). The Examiner respectfully disagrees. Indeed, Takashi's reference does not pertain to an optical fiber observing image processing apparatus. However, Takashi's reference is directed to an endoscope image processing apparatus, nevertheless. Examiner is merely utilizing the image processing aspect of the Takahashi's reference as a secondary reference.

Further, primary reference (Hattori) discloses an optical fiber observing image processing apparatus, wherein all of the claimed limitations are met with the exception of Takahashi's teaching, involving automatically switching in sync with or independently from progress of image processing (image processing).

Therefore, the Examiner considers that Takahashi's reference is an analogous art and can be used in a 35 USC § 103(a).

B) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

C) Takahashi teaches two camera image observation processing apparatus (Fig. 11(a), 2a, 2b) comprising the image capturing means having two or more different capturing modes (Fig. 12, 53, memory for cameras 2a and 2b, respectively), wherein the capturing modes which are automatically switched (Fig. 12, 54; col. 11, lines 45-53) in synchronous with or independently from process of the image processing (Fig. 11, 37).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori (6,034,718) in view of Takahashi (5,522,789).

Regarding claim 1, Hattori discloses an optical fiber observing image processing apparatus and processing image data of the optical fibers photo-taken by cameras, comprising:

an image capturing means (Fig. 1, 2a, 2b) capturing image data from at least two cameras and image processing only desired image data from each of the cameras; and

the image capturing means having two or more different capturing modes (memory for cameras 1 and 2, respectively) regarding the capturing of the image data (Fig. 5A), and image processing to position the optical axis and end faces of optical fibers (Fig. 1).

Hattori does not specifically disclose the capturing modes are automatically switched in synchronous with or independently from process of the image processing.

However, Takahashi teaches two camera image observation processing apparatus (Fig. 11(a)) comprising the image capturing means having two or more different capturing modes (Fig. 12, 53, memory for cameras 2a and 2b, respectively), wherein the capturing modes which are automatically switched (Fig. 12, 54; col. 11, lines 45-53) in synchronous with or independently from process of the image processing (Fig. 11, 37).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing an optical fiber observing image processing apparatus as taught by Hattori to solely incorporate the conventional concept of the automatic switching of the capturing modes as taught by Takahashi for highly accurate measurement and observation of the optical fibers.

Regarding claims 2-6, Hattori discloses an optical fiber observing image processing apparatus and processing image data of the optical fibers photo-taken by cameras, comprising:

an image capturing means (Fig. 1, 2a, 2b) capturing image data from at least two cameras and image processing only desired image data from each of the cameras; and

the image capturing means having two or more different capturing modes (memory for cameras 1 and 2, respectively) regarding the capturing of the image data (Fig. 5A), and image processing to position the optical axis and end faces of optical fibers (Fig. 1).

Hattori does not specifically disclose the capturing modes are automatically switched in synchronous with or independently from process of the image processing, and the capturing modes including at least two of a capturing mode in which the image data can be captured from the cameras from frame to

frame and field to field and the image data from cameras can be captured by successively switching cameras from frame to frame and field to field.

Hattori also fails to disclose a capturing mode in which image data can be captured from cameras from pixel to pixel and successively switching the cameras from pixel to pixel.

However, Takahashi teaches two camera image observation processing apparatus (Fig. 11(a)) comprising the image capturing means having two or more different capturing modes (Fig. 12, 53, memory for cameras 2a and 2b, respectively), wherein the capturing modes which are automatically switched (Fig. 12, 54; col. 11, lines 45-53) in synchronous with or independently from process of the image processing (Fig. 15; Fig. 11, 37).

Takahashi also teaches a configuration of the memory (65), wherein an image data can be captured from the cameras from frame to frame and field to field and the image data from cameras can be captured by successively switching cameras from frame to frame and field to field (Fig. 15; col. 13, lines 45-67; col. 14, lines 1-14).

Furthermore, it is well known in the art that a frame and a field are inherently are made up of a plurality of pixels.

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing an optical fiber observing image processing apparatus as taught by Hattori to incorporate the Takahashi's concepts as above so that the capturing modes include at least two of a capturing mode in which image data can be captured and successively switched from cameras from the frame to frame, the field to field, and the inherent pixel to pixel for highly accurate measurement and observation of the optical fibers.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Shawn S An** whose telephone number is 703-305-0099. The Examiner can normally be reached on Flex hours (10).

7. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



SSA

Primary Patent Examiner

3/10/04